

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MILTON HARRIS,)
)
 Plaintiff,)
)
 v.) No. 3:04-0762
)
 THE METROPOLITAN GOVERNMENT OF) JUDGE ECHOLS
 NASHVILLE AND DAVIDSON COUNTY,)
 et al.,)
)
 Defendants.)

ORDER

For the reasons stated in the Memorandum entered contemporaneously herewith, the Court rules as follows:

(1) the Motion for Partial Dismissal (Docket Entry No. 7) and the Motion for Partial Dismissal of Second Amended and Supplemental Complaint (Docket Entry No. 37) filed by Defendants Dr. Elizabeth Keel,¹ Michael Tribue, Dr. Frank Cirrincione and Metropolitan Government are hereby GRANTED IN PART AND DENIED IN PART.

(2) the Motion for Dismissal (Docket Entry No. 11) and Motion for Partial Dismissal of Second Amended and Supplemental Complaint (Docket Entry No. 39) filed by Defendant Scott Brunette, and which adopt the Motions filed by the other Defendants, are hereby GRANTED IN PART AND DENIED IN PART.

(3) Plaintiff's state-law claims of intentional and negligent infliction of emotional distress brought against all individual

¹Defendant refers to Dr. June Keel, but for docketing purposes, the Court will use the name that was stated in Plaintiff's Second Amended and Supplemental Complaint.

Defendants are hereby DISMISSED WITH PREJUDICE in light of Plaintiff's agreement to dismiss these claims voluntarily.

(4) Plaintiff's state-law claim of malicious harassment brought against all Defendants is hereby DISMISSED WITH PREJUDICE in light of Plaintiff's agreement to dismiss the claim voluntarily.

(5) The Second Amended and Supplemental Complaint does not contain any claims of individual liability against Defendants Dr. Keel, Tribune, Dr. Cirrincione and Brunette under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and under the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 623 *et seq.* Thus, to the extent the Motion for Partial Dismissal (Docket Entry No. 7) and the Motion for Dismissal (Docket Entry No. 11) seek dismissal of such claims included in the original and Amended Complaints, the Motions are hereby DENIED AS MOOT.

(6) Plaintiff's claim for intentional race discrimination under 42 U.S.C. § 1981 is hereby DISMISSED WITH PREJUDICE as to all Defendants for failure to state a claim.

(7) Plaintiff's Equal Protection claim under 42 U.S.C. § 1983 is hereby DISMISSED WITH PREJUDICE as to all Defendants for failure to state a claim.

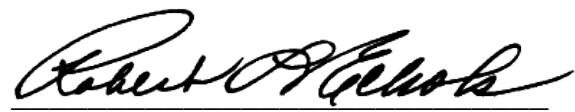
(8) The Motions to Dismiss Plaintiff's claim under the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.*, are hereby DENIED.

(9) The claims remaining for adjudication against Defendant Metropolitan Government are: race and age discrimination claims under Title VII, the ADEA, and the Tennessee Human Rights Act; the

FMLA claim, a retaliation claim under 42 U.S.C. § 1981, and a state-law breach of contract claim. The claim remaining for adjudication against the individual Defendants is a retaliation claim under 42 U.S.C. § 1981.

This case is hereby returned to the Magistrate Judge for further proceedings consistent with Local Rule 11. All deadlines previously established remain in full force and effect.

It is so ORDERED.



Robert L. Echols
ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE